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10/697,376

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EXAMINER

PRICE, CRAIG JAMES

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

03/20/2009

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* CHRISTOPHER E. SCHAFER and RODNEY M. RAMSEY

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Application No. 10/697,376  
Technology Center 3700

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Mailed: March 20, 2009

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Before CAROLYN L. JOHNSON, *Supervisory Paralegal Specialist*.  
JOHNSON, *Supervisory Paralegal Specialist*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 18, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

APPEAL BRIEF, APPEALED CLAIMS

Appellants have not appealed all rejected claims. Specifically, a review of the Grounds of Rejection on the record finds that a rejection is outstanding for pending claim 4. The rejected claim that has not been argued for appeal is claim 4.

EXAMINER'S ANSWER

GROUND OF REJECTION TO BE REVIEWED UPON APPEAL

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed July 16, 2007 under the heading "Grounds of rejection to be Reviewed on Appeal" is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds that the Examiner has not addressed the rejection of claim 4, as set forth in the Final Rejection mailed on August 9, 2006.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner:

(1) to generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;

(2) to include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and

(3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

clj

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